

This version of the code is dated April 6, 2022 and reflects the Planning Commission recommendation with some additional edits. Changes recommended by the Planning Commission have been incorporated into this version. Additional edits made since the Planning Commission's recommendation are shown in track changes. Areas of the code that are highlighted in grey indicated sections that are clearly not applicable outside the city limits, inside the Urban Growth Boundary (UGB).

## **Section 5.3-100 Appeals**

### **Subsections:**

- 5.3-105 Purpose**
- 5.3-110 Review**
- 5.3-115 Appeals of the Director's or Hearings Official's Type 2 Decision**
- 5.3-120 Appeals of the Planning Commission's Type 3 Decision**
- 5.3-125 Appeals of the Hearings Official's and City Council's Final Action**

### **5.3-105 Purpose**

This Section provides procedures and approval criteria for the review of appeals of the Director's, Hearings Official's, Planning Commission's or City Council's decision on land use and development applications.

### **5.3-110 Review**

Appeals of decisions under this Code are reviewed as follows:

- A.** Type 3 Procedure. The Director's decision, which is a Type 2 procedure, may be appealed to the Planning Commission or Hearings Official by a party as specified in SDC 5.3-115.
  - 1.** The Planning Commission shall hear appeals of the Director's decision within the city limits.
  - 2.** The Hearings Official shall hear:
    - a.** Appeals of the Director's decision outside of the city limits but inside the City's urbanizable area;
    - b.** Appeals of expedited land division actions as specified in ORS 197.375; and
    - c.** Appeals of a Drinking Water Protection application as specified in SDC 3.3-245.
- B.** Type 4 Procedure. The Planning Commission's quasi-judicial decision, which is a Type 3III procedure, may be appealed to the City Council by a party as specified in SDC 5.3-120.
- C.** If more than one party files an appeal on a decision, the Director may consolidate them to be heard as one proceeding.

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#### **5.3-115 Appeals of the Director's or Hearings Official's Type II Decision**

- A.** Standing to Appeal. Only the property owner, applicant, if different and those persons who submitted written comments within the specific comment period for limited land use decisions, or those persons entitled to notice for non-limited land use decisions shall have standing to appeal the Director's or Hearings Official's decision.
- B.** Filing an Appeal. An appeal application shall be filed with the Director within 15 calendar days of the Director's or Hearings Official's decision.
- C.** Notice. The Director shall provide notice of the public hearing to the property owner, applicant, if different, the appellant and all persons who submitted comments or requested notice of the decision as part of the process leading to the Director's or Hearings Official's decision. The notice of the appeal hearing shall be as specified in SDC 5.2-115.
- D.** Review. The review is de novo and the public hearing shall be conducted as specified in SDC 5.2-135.
- E.** Decision. The Planning Commission or Hearings Official shall consider the Director's staff report and all other evidence presented, including oral and written testimony in making their decision. The Planning Commission or Hearings Officer may affirm, modify or reverse the Director's decision and shall adopt findings in support of their decision. The Planning Commission or Hearing's Officer may attach conditions as may be reasonably necessary in order to allow the appeal to be granted. The Planning Commission's or Hearings Officer's decision is final.

#### **EXCEPTIONS:**

- 1.** A Type 3 appeal decision may be reviewed as an appeal by the City Council on its own motion.
- 2.** An appeal of an expedited land division shall be as specified in ORS 197.375.  
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#### **5.3-120 Appeals of the Planning Commission's Type III Decision**

- A.** Standing to Appeal. Only those persons who participated either orally or in writing have standing to appeal the decision of the Planning Commission. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record.

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- B.** Filing an Appeal. An appeal application shall be filed with the Director within 15 calendar days of the Planning Commission's decision.
- C.** Notice. The Director shall provide notice of the public hearing to all parties who participated either orally or in writing before the close of the public record leading to the Planning Commission's decision. The notice of the appeal hearing shall include the information specified in SDC 5.2-115.
- D.** Review. The review shall be as determined by the City Council. The parties may be permitted to present their oral or written arguments as to all matters within that record. The public hearing shall be conducted as specified in SDC 5.2-135.
- E.** Decision. The City Council shall consider the Director's report and all other evidence presented, including oral and written testimony in making their decision. The City Council may affirm, modify or reverse the Director's decision and shall adopt findings in support of their decision. The City Council may attach conditions as may be reasonably necessary in order to allow the appeal to be granted. The City Council's decision is final.

<b>5.3-125</b>	<b>Appeals of the Hearings Official's and City Council's Final Action</b>
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A decision of the Hearings Official or the City Council may be appealed to the Oregon Land Use Board of Appeals as specified in ORS Chapter 197.